Case Citation: (2026) ibclaw.in 6441 HC

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL

ON THE 13th OF OCTOBER, 2026

WRIT PETITION No. 40757 of 2026

CNR No.: MPHC010721432026

ANIL KUMAR SAHU

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Hemant Sausarkar - Advocate for the petitioner.

Shri Yogesh Dhande - Government Advocate the respondents/State.

ORDER

This petition under Article 226 of Constitution of India has been filed seeking following reliefs :-

> "*I).* Issue a writ in the nature of mandamus directing the respondent authority to decide the representation (Annexure P/4) of the petitioner and register an FIR against the respondent No.4, in compliance of law laid down by the Hon'ble Supreme Court in the case of ***Lalita Kumari Vs. Govt. of U.P. (2014) 2 SCC 1*** ;
> *II).* That, direct the respondent No.4 to hand over the vehicle to the petitioner.;
> *III) A*ny other relief which this Hon'ble Court deemed fit and proper may kindly be granted to the petitioner along with cost of the litigation. "

2. Learned counsel for the petitioner has submitted that petitioner is the registered owner of the vehicle bearing No.MP54ZC4757. He has given his vehicle on rent to the tune of Rs.3,25,000/- to respondent No.4 for a period of 11 months, but respondent No.4 has neither paid the rent nor returned the vehicle to

IBC Laws | www.ibclaw.in

the petitioner. It is further submitted that respondent No.4 has given a cheque of Rs.3,25,000/- to the petitioner, but when the petitioner presented the said cheque in the Bank, the cheque got dishonoured. In this regard, petitioner filed a complaint under Section 138 of N.I. Act in which arrest warrant has been issued against the respondent No.4. He has also given an application against the respondent No.4 to the S.P., Umaria, but no action has been taken by the police authorities on his application. Therefore, he prays that respondents be directed to decide his application.

3. On the other hand, learned Government Advocate opposed the prayer made by the petitioner on the ground that the relief prayed in this petition cannot be granted to the petitioner in view of the fact that the petitioner is having an alternative efficacious remedy of filing complaint before the Competent Magistrate under Section 156(3), 200 & 202 of Cr.P.C. against the accused persons. Hence, it is prayed that the present petition be dismissed.

4. Heard learned counsel for the parties and perused the record.

5. In the case of ***Sakiri Vasu vs State Of U.P. And Others (2008) 2 SCC 409)*** has held as under:-

> *"11. In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 Cr.P.C., then he can approach the Superintendent of Police under Section 154(3) Cr.P.C. by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156 (3) Cr.P.C. before the learned Magistrate concerned. If such an application under Section 156 (3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a*

proper investigation.

xxxx xxxx xxxx

xxxx

13. The same view was taken by this Court in Dilawar Singh vs. State of Delhi JT 2007 (10) SC 585 (vide para 17). We would further clarify that even if an FIR has been registered and even if the police has made the investigation, or is actually making the investigation, which the aggrieved person feels is not proper, such a person can approach the Magistrate under Section 156(3) Cr.P.C., and if the Magistrate is satisfied he can order a proper investigation and take other suitable steps and pass such order orders as he thinks necessary for ensuring a proper investigation. All these powers a Magistrate enjoys under Section 156(3) Cr.P.C.

14. Section 156 (3) states:

"Any Magistrate empowered under Section 190 may order such an investigation as abovementioned."

The words `as abovementioned obviously refer to Section 156 (1), which contemplates investigation by the officer in charge of the Police Station.

15. Section 156(3) provides for a check by the Magistrate on the police performing its duties under Chapter XII Cr.P.C. In cases where the Magistrate finds that the police has not done its duty of investigating the case at all, or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly, and can monitor the same.

16. The power in the Magistrate to order further investigation under Section 156(3) is an independent power, and does not affect the power of the investigating officer to further investigate the case even after submission of his report vide Section 173(8). Hence the Magistrate can order re-opening of the investigation even after the police submits the final report, vide State of Bihar vs. A.C. Saldanna AIR 1980 SC 326 (para 19).

17. In our opinion Section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an F.I.R. and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) Cr.P.C., though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.

xxxx xxxx xxxx xxxx

24. In view of the abovementioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate under Section 156(3) Cr.P.C. to order registration of a criminal offence and /or to direct the officer in charge of the concerned police station to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) Cr.P.C., we are of the opinion that they are implied in the above provision.

27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the concerned police officers, and if that is of no avail, under Section 156(3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C.

28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.

6 . Recently the Apex Court in the case of ***M.Subramaniam Vs. S. Janaki*** (Cr.A. No.102 of 2011) decided on 20/3/2020, has held as under:- 20/3/2020, has held as under:-

"6. The said ratio has been followed in ***Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and Others ((2016)6 SCC 277),*** *in which it is observed.*

"2. This Court has held in Sakiri Vasu v. State of U.P., that if a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go

to the High Court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) CrPC. If such an application under Section 156(3) CrPC is made and the Magistrate is, prima facie, satisfied, he can direct the FIR to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a proper investigation is done in the matter. We have said this in Sakiri Vasu case because what we have found in this country is that the High Courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.

3. We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to do any other work except dealing with such writ petitions. Hence, we have held that the complainant must avail of his alternate remedy to approach the Magistrate concerned under Section 156(3) CrPC and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation.

4. In view of the settled position in Sakiri Vasu case, the impugned judgment of the High Court cannot be sustained and is hereby set aside. The Magistrate concerned is directed to ensure proper investigation into the alleged offence under Section 156(3) CrPC and if he deems it necessary, he can also recommend to the SSP/SP concerned a change of the investigating officer, so that a proper investigation is done. The Magistrate can also monitor the investigation, though he cannot himself investigate (as investigation is the job of the police). Parties may produce any material they wish before the Magistrate concerned. The learned Magistrate shall be uninfluenced by any observation in the

impugned order of the High Court."

7. In congruence with the aforesaid well settled position, a Division Bench of this Court has taken a similar view in the case of ***Shweta Bhadoriya vs. State of M.P. & Ors. (2017) 1 MPLJ (Cri) 338***.

8. The Hon'ble Apex Court has considered the judgments of Lalita Kumari (Supra) and Sakiri Vasu (Supra) in the recent judgment of ***Ashiwini Kumar Upadhyay Vs. Union of India and Ors reported in 2026 LiveLaw (SC) 437*** and held as under :-

> ***(i) Statutory Framework governing Registration of Offences under CrPC/BNSS***
>
> ***46.*** *The CrPC provides a comprehensive statutory framework governing the recording of information relating to cognizable offences, the consequent investigation by police authorities, and the supervisory jurisdiction of the Magistrate over the process. Importantly, CrPC also envisages specific remedies to address situations where the police fail or decline to register a First Information Report16 despite disclosure of a cognizable offence. It is, therefore, necessary to briefly examine the scheme of the Code, the duty cast upon the police to register an FIR upon disclosure of a cognizable offence, and the remedies available to an aggrieved person in cases of non-registration.*
>
> ***47.*** *While emphasising the significance of FIR, the Constitution Bench of this Court in Lalita Kumari v. Government of Uttar Pradesh & Ors.17, recognised it as a foundational document in the criminal law process, the primary object of which is to set the criminal law in motion. Section 154 of CrPC (Section 173 of BNSS) lays down the procedural architecture for this purpose. The use of the expression "shall" in the provision makes it abundantly clear that every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, must be reduced to writing and entered in the prescribed register. The provision, thus, casts a mandatory duty upon the police officer, leaving no discretion in the matter. The*

underlying object is to ensure that the earliest information regarding the commission of a cognizable offence is formally recorded, thereby enabling the investigative machinery to act promptly, trace the offence, and bring the offender to justice.

48. The scheme of the CrPC makes a clear and conscious distinction between cognizable and non-cognizable offences. In respect of cognizable offences, the police are vested with the power to register the case, arrest without warrant, and proceed with investigation without prior judicial sanction. On the other hand, in cases of non-cognizable offences, Section 155 of CrPC (Section 174 of BNSS) requires prior authorization of the Magistrate before any investigation can be undertaken. This distinction reflects the legislative intent to ensure immediacy of action in serious offences affecting public order and safety.

49. However, even under Section 155 of CrPC (Section 174 of BNSS), the use of mandatory language obligates the officer in charge of a police station to record the substance of information relating to a non-cognizable offence in the prescribed register. Though investigation in such cases requires prior authorization of the Magistrate, the recording of information itself is not left to discretion.

(ii) Mandatory Registration of FIR upon Disclosure of Cognizable Offence

50. The issue whether registration of an FIR is mandatory upon disclosure of a cognizable offence is no longer res integra. This Court in Lalita Kumari (supra) has conclusively held that the statutory scheme of CrPC leaves no discretion with the police in such cases and mandates registration of an FIR. This Court further clarified that no preliminary enquiry is permissible to test the veracity or credibility of the information before registration.

51. The principle underlying the said judgment is that the registration of an FIR is only the first step in the criminal investigative process. Questions relating to the truthfulness, reliability or sufficiency of the allegations

fall squarely within the domain of investigation and cannot be made a ground to refuse registration of the FIR at the threshold.

(iii) Statutory Mechanism to address Non-registration of FIR.

52. Equally significant is the fact that the CrPC itself provides a comprehensive set of remedies in cases where the police fail or refuse to register an FIR despite disclosure of a cognizable offence.

53. In the first instance, Section 154(3) of CrPC (Section 173 of BNSS) enables an aggrieved person to approach the Superintendent of Police by submitting the substance of such information. Upon being satisfied that the information discloses the commission of a cognizable offence, the Superintendent of Police may either undertake the investigation himself or direct an investigation to be conducted by a subordinate officer.

54. In addition, the remedy under Section 156(3) of CrPC (Section 175 of BNSS) confers supervisory powers upon the Magistrate. Section 156(3) of CrPC empowers the Magistrate to direct registration of an FIR and investigation by the police. This Court in Madhu Bala v. Suresh Kumar,18 clarified that the power to order investigation under Section 156(3) implicitly includes the power to direct registration of a case. The relevant extract is reproduced hereunder:-

> *"7. On completion of investigation undertaken under Section 156(1) the officer in charge of the police station is required under Section 173(2) to forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government containing all the particulars mentioned therein. Chapter XIV of the Code lays down the conditions requisite for initiation of proceedings by the Magistrate. Under sub-section (1) of Section 190 appearing in that Chapter any Magistrate of the First Class and*

any Magistrate of the Second Class specially empowered may take cognizance of any offence (a) upon receiving a "complaint" of facts which constitutes such offence; (b) upon a "police report" of such facts; or (c) upon information received from any person other than a police officer, or upon his own knowledge that such offence has been committed. Chapter XV prescribes the procedure the Magistrate has to initially follow if it takes cognizance of an offence on a complaint under Section 190(1)(a).

8. From a combined reading of the above provisions it is abundantly clear that when a written complaint disclosing a cognizable offence is made before a Magistrate, he may take cognizance upon the same under Section 190(1)(a) of the Code and proceed with the same in accordance with the provisions of Chapter XV. The other option available to the Magistrate in such a case is to send 18 (1997) 8 SCC 476 the complaint to the appropriate police station under Section 156(3) for investigation. Once such a direction is given under sub-section (3) of Section 156 the police is required to investigate into that complaint under sub-section (1) thereof and on completion of investigation to submit a "police report" in accordance with Section 173(2) on which a Magistrate may take cognizance under Section 190(1)(b) — but not under 190(1)(a). Since a complaint filed before a Magistrate cannot be a "police report" in view of the definition of "complaint" referred to earlier and since the investigation of a "cognizable case" by the police under Section 156(1) has to culminate in a "police report" the "complaint" — as soon as an order under Section 156(3) is passed thereon — transforms itself to a report given in writing within the meaning of Section 154 of the Code, which is known as the first information report (FIR). As under Section 156(1), the police can only

investigate a cognizable "case", it has to formally register a case on that report." (emphasis supplied).
It is, therefore, clear that once a Magistrate directs investigation under Section 156(3) of CrPC, the police is duty-bound to first register an FIR and thereafter proceed with the investigation into the complaint, which, upon such direction, attains the character of a duly registered case disclosing a cognizable offence.

55. This Court in Sakiri Vasu v. State of U.P.,19 had occasion to consider the scope and ambit of Section 19 (2008) 2 SCC 409 156(3) of CrPC. While examining the scheme of the provision and the supervisory role of the Magistrate, the Court observed as follows:

"15. Section 156(3) provides for a check by the Magistrate on the police performing its duties under Chapter XII CrPC. In cases where the Magistrate finds that the police has not done its duty of investigating the case at all, or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly, and can monitor the same.
.....
17. In our opinion Section 156(3) CrPC is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an FIR and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) CrPC, though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.
.....
24. In view of the abovementioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is

an implied power in the Magistrate under Section 156(3) CrPC to order registration of a criminal offence and/or to direct the officer in charge of the police station concerned to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same.

Even though these powers have not been expressly mentioned in Section 156(3) CrPC, we are of the opinion that they are implied in the above provision." (emphasis supplied).

The position of law, therefore, stands clarified that Section 156(3) of CrPC impliedly empowers the Magistrate to direct registration of a criminal case.

5 6 . In Sakiri Vasu (supra), this Court also deprecated the practice of directly invoking the jurisdiction of constitutional Courts in matters relating to non- registration of FIRs. While delineating the statutory mechanism available to an aggrieved informant, the Court observed as follows: -

"25. We have elaborated on the above matter because we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 CrPC. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his alternating remedy, first under Section 154(3) and Section 36 CrPC before the police officers concerned, and if that is of no avail, by approaching the Magistrate concerned under Section 156(3).

26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) CrPC or other police officer referred to in Section 36 CrPC. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) CrPC instead of rushing to the High Court by way of a writ

petition or a petition under Section 482 CrPC. Moreover, he has a further remedy of filing a criminal complaint under Section 200 CrPC. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?

27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 CrPC simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the police officers concerned, and if that is of no avail, under Section 156(3) CrPC before the Magistrate or by filing a criminal complaint under Section 200 CrPC and not by filing a writ petition or a petition under Section 482 CrPC." (emphasis supplied).

Thus, where an informant is aggrieved by non-registration of an FIR, the first remedy available is to approach the Superintendent of Police under Section 154(3) of CrPC (Section 173 of BNSS). If the grievance persists, the informant may thereafter invoke the jurisdiction of the Magistrate under Section 156(3) of CrPC (Section 175 of BNSS), who is empowered to direct registration of the FIR and consequent investigation.

.....

.....

.....

164. *For the foregoing reasons and discussion, our conclusions are summarised as follows:*

I. *The creation of criminal offences and the prescription of punishments lie squarely within the legislative domain. The constitutional scheme, founded upon the Doctrine of Separation of Powers, does not permit the judiciary to create new offences or expand the contours of criminal liability through judicial directions.*

II. The precedents of this Court consistently affirm that while constitutional Courts may interpret the law and issue directions to secure the enforcement of fundamental rights, they cannot legislate or compel legislation. At the highest, the Court may draw attention to the need for reform; the decision whether, and in what manner, to legislate remains within the exclusive domain of the Parliament and the State Legislatures.

III. The contention that the field of hate speech remains legislatively unoccupied is misconceived. The existing framework of substantive criminal law, including the provisions of the IPC and allied legislations, adequately addresses acts that promote enmity, outrage religious sentiments, or disturb public tranquillity. The field is, therefore, not unoccupied.

IV. The material placed before this Court indicates that a greater extent of the concerns highlighted by the petitioners arise not from the absence of law, but from deficits in its consistent and effective enforcement. Such concerns, however significant, cannot justify the judicial assumption of legislative functions.

V. The statutory framework under the CrPC (now the Bharatiya Nagarik Suraksha Sanhita, 2023), provides a comprehensive and layered mechanism to set the criminal law in motion.

The duty of the police to register an FIR upon disclosure of a cognizable offence is mandatory, as settled in Lalita Kumari (supra).

VI. In cases of non-registration of FIR, the CrPC/BNSS provide efficacious remedies. An aggrieved person may approach the Superintendent of Police under Section 154(3) of CrPC or corresponding Section 173(4) of BNSS and thereafter invoke the jurisdiction of the Magistrate under Section 156(3) of CrPC (corresponding Section 175 of BNSS) or proceed by way of a complaint under Section 200 of CrPC (corresponding Section 223 of BNSS). These remedies constitute a complete statutory

architecture.

VII. *The availability of such remedies, coupled with the supervisory jurisdiction of constitutional Courts under Articles 32 and 226 of the Constitution demonstrates that no legislative vacuum exists warranting the intervention sought. The appropriate course lies in ensuring faithful and even-handed enforcement of existing law.*

VIII. *The supervisory jurisdiction of the Magistrate under Section 156(3) of CrPC or corresponding Section 175 of BNSS is of wide amplitude and includes supervisory oversight over the investigation at appropriate stages. This power is intended to ensure that the investigation is conducted in a fair, impartial, and lawful manner, and may be exercised simultaneously during the stage of investigation, where the material on record discloses any deficiency, inaction, or taint in the investigative process.*

IX. *The requirement of prior sanction under Sections 196 and 197 of CrPC (corresponding Sections 217 and 218 of BNSS) operates at the stage of taking cognizance and does not extend to the pre-cognizance stage of registration of FIR or investigation under Section 156(3) of CrPC (corresponding Section 175(3) of BNSS). An order directing investigation under Section 156(3) of CrPC does not amount to taking cognizance within the meaning of Section 190 of CrPC (corresponding Section 210 of BNSS).*

X. *While we decline to issue directions of the nature sought, we deem it appropriate to observe that issues relating to 'hate speech' and 'rumour mongering' bear directly upon the preservation of fraternity, dignity, and constitutional order. It would be open to the Union of India and competent legislative authorities to consider, in their wisdom, whether any further legislative or policy measures are warranted in light of evolving societal challenges or to bring about suitable amendments as suggested by the Law Commission's 267th Report dated 23rd March,*

Case Citation: (2026) ibclaw.in 6441 HC

2017.

9. In view of the legal conspectus on the point in issue, as cited above, since the petitioner has rushed to this Court without availing the alternative efficacious remedy as envisaged under the Cr.P.C./B.N.S.S., this petition cannot be entertained.

10. Accordingly, present petition is **dismissed** with liberty to petitioner that if so desire, then he can approach the concerning Magistrate under the provisions of Cr.P.C./B.N.S.S. for redressal of his grievance.

(PRAMOD KUMAR AGRAWAL)
JUDGE

Sateesh

IBC Laws | www.ibclaw.in